

REMARKS

In response to the Restriction Requirement under 35 U.S.C. §121, dated June 27, 2006, Applicants respectfully request that, prior to examination on the merits, claims 1-31 be canceled and new claims 32-45 be entered. Support for the new claims can be found throughout the specification, including page 6, lines 18-28 and lines 29-35; page 7, lines 6-16; page 8, lines 20-25; page 13, line 11 to page 14, line 33; page 18, lines 34-35; and the originally filed claims and, therefore, do not add new matter. Applicants respectfully request that new claims 32-45 be entered.

Applicants submit that an Election may be made by claiming another invention, where such claims are added and entered in the application before they receive an action on the merits by the Office (see, M.P.E.P. §818.02(a)). As Applicants have canceled claims 1-31, and have requested entry of new claims 32-45 before the Election has become fixed (see, M.P.E.P. §818.01), new claims 32-45 should be treated as original claims for purposes of restriction.

Accordingly, Applicants elect, without traverse, species (a) a nucleic acid encoding p53, and species (b) rheumatoid arthritis, for examination on the merits. Species (a) reads on claims 32-45 and species (b) reads on claims 32-41 and 43-45. Further, in the event that a new restriction is required, Applicants elect claims 32-43, drawn to a composition, without traverse.

In re Application of
Gary S. Firestein et al.
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Filed: November 18, 2003
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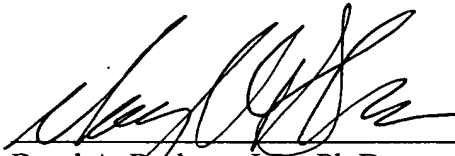
PATENT
Attorney Docket No.: UCSD1160-4

Conclusion

A check in the amount of \$1080.00 is enclosed for the Five-Month Extension of Time fee. No other fee is believed due in connection with this Response to Restriction Requirement. In the event that any fee is due, the Commissioner is hereby authorized to charge any amounts required by this filing, or credit any overpayment, to Deposit Account No. 07-1896, referencing the above-identified attorney docket number. A duplicate copy of the Transmittal Sheet is enclosed.

Respectfully submitted,

Date: December 19, 2006



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